



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF STATE COUNSEL  
LITIGATION BUREAU

Writer Direct: (518) 776-2608

December 20, 2017

Hon. Daniel J. Stewart (via ECF)  
Magistrate Judge  
U.S. District Court, N.D.N.Y.  
James T. Foley U.S. Courthouse  
445 Broadway, 4<sup>th</sup> Floor  
Albany, New York 12207

Re: *Thevenin v. City of Troy, et al.*  
16-CV-1115 (DJS)

Dear Judge Stewart:

As the court is aware, the City of Troy served the New York State Office of the Attorney General (“OAG”) with a proposed subpoena in connection with the above-referenced action. The proposed subpoena directed production of a report generated by Precision Simulations, Inc. (“PSI Report”) in connection with the shooting of Edson Thevenin by a member of the Troy Police Department being investigated by the OAG’s Special Investigations and Prosecutions (“SIP”) Unit. In turn, during a telephonic court conference on November 28, 2017, the OAG agreed to provide the PSI Report to the parties in this pending civil matter on January 2, 2018. I write to request that the court extend the time within which to provide the PSI report by 14 days.

Pursuant to Executive Order 147, the SIP Unit has jurisdiction over the underlying shooting and is in the process of completing the work required of it by the Executive Order. As the Court may be aware, in accordance with the Executive Order, prior SIP investigations have concluded with the issuance of a report concerning the SIP Unit’s investigative findings and proposals for systemic reforms. The SIP Unit does not believe it would be prudent to release the PSI Report prior to the release of an overall report regarding the incident, since doing so would provide only a limited and incomplete perspective of certain relevant facts.

In addition, subsequent to the November 28, 2017 telephonic court conference, an indictment was returned in New York State Supreme Court against Rensselaer County District Attorney Joel Abelow for one count of perjury and two counts of official misconduct for conduct relating to his handling of the underlying investigation of the shooting of Mr. Thevenin. Yesterday, the attorney for District Attorney Abelow informed us that he would like to schedule another conference to address (among other issues) discovery in the criminal matter, including production of the PSI Report. The parties are now attempting to schedule a conference with the

December 21, 2017

Page 2

judge presiding over the criminal matter.

In light of the above, the SIP Unit respectfully requests that it be permitted to produce the PSI Report to the parties in the matter before this Court by January 16, 2018 by which time we expect the issues highlighted above will be fully resolved.

I have advised counsel for the plaintiff of this situation, and she takes no position as to the request to extend the January 2, 2018 deadline to January 16, 2018.

Very truly yours,

*s/ Adrienne J. Kerwin*  
Adrienne J. Kerwin  
Assistant Attorney General  
Bar Roll No. 105154

cc: Ashish A. Nelluvely (via ECF)  
Fitzgerald Morris Barker Firth  
16 Pearl Street  
P.O. Box 2017  
Glens Falls, New York 12801

Michael A. Rose (via ECF)  
Hach & Rose, LLP  
185 Madison Avenue, 14<sup>th</sup> Floor  
New York, NY 10016

Neil S. Torczyner (via ECF)  
Harfenist Kraut & Perlstein LLP  
3000 Marcus Avenue, Suite 2E1  
Lake Success, NY 11042

Hon. Jonathan D. Nichols (via email)  
(Court presiding over the Abelove case)  
Columbia Supreme Court  
401 Union Street  
Hudson, NY 12534  
jnichols@nycourts.gov

William J. Dreyer (via email)  
(Counsel to Joel Abelove)  
Dreyer Boyajian LLP  
75 Columbia Street  
Albany, NY 12210  
Wdreyer@dreyerboyajian.com